

Public Hearing: April 23, 2001

## **F A C T   S H E E T**

**TITLE:** FEMA Mitigation Grant Program  
Floodplain Conservation Easements

**SPONSOR:** Public Works & Utilities

**OPPONENTS:** Unknown.

**OTHER DEPARTMENTS AFFECTED:**

Parks & Recreation Dept.  
Finance Dept.  
Urban Development Dept./Real Estate Div.  
Planning Dept.  
County Commissioners

**STAFF RECOMMENDATION:** For

**APPLICANT:** Public Works & Utilities

**REASON FOR LEGISLATION:** The purpose of this resolution is to ratify the Mayor's signature on the State-Local Contractual Agreement with the State of Nebraska for the Hazard Mitigation Grant Program. It will also transfer appropriations and cash for the City's share of the local match from the Disaster Recovery (FEMA) Fund No. 00195, '97 Storm Recovery/Business Unit No. 18029 to the Grants In-Aid Fund/Wilderness Park Conservation Easements/Business Unit No. 240801 to implement this program.

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## **D I S C U S S I O N**

**Purpose of Project:**

Purchase of permanent conservation easements to restrict the use of the land to permanent open space to:

- 1) prevent future property damages for floodplain properties that would otherwise be expected to develop in the future; and
- 2) preserve the flood storage capacity of the 100-year floodplain to prevent an increase in the flooding of properties downstream along Salt Creek.

This project is made possible by a \$1.1 million grant recently awarded by FEMA to the City of Lincoln. The target area for this project is the 100-year floodplain of Salt Creek, generally south of Wilderness Park, as shown on the attached map. All conservation easements must be purchased on a voluntary basis. This project is also conditioned upon no easements being purchased within the South Beltway corridor. The time period for the completion of this project is two years and there is a 25% local match which is being shared by the City and County.

The implementation of this project will be closely coordinated with the Nebraska Environmental Trust (NET) Grant recently awarded to the Parks and Recreation Department for the purchase of conservation easements and/or fee simple title of floodplain property surrounding and to the south of Wilderness Park (see attached NET project description). The Public Works & Utilities Department is currently working closely with the Lower Platte South NRD, the Parks and Recreation Department, and other

City and County departments to prioritize properties within this floodplain corridor and to determine where fee simple acquisition may be more desirable than the purchase of conservation easements.

Steps for the implementation of these programs are generally as follows:

1. Property identification and prioritization;
2. Identification of preferred type of acquisition (fee simple or conservation easement);
3. Identification of program funds (NET or FEMA);
4. Contact property owners and identify interested parties;
5. Complete appraisals;
6. Conduct negotiations with property owners;
7. Purchase of conservation easements or fee simple title.

**POLICY OR PROGRAM CHANGE:** No

**COST OF TOTAL PROJECT:** \$1,466,667

**LOCAL CONTRIBUTION:** \$366,667

**SOURCE OF FUNDS:**

**CITY:** \$183,333.5

**NON CITY:** \$1,283,333.5

**FACT SHEET PREPARED BY:**

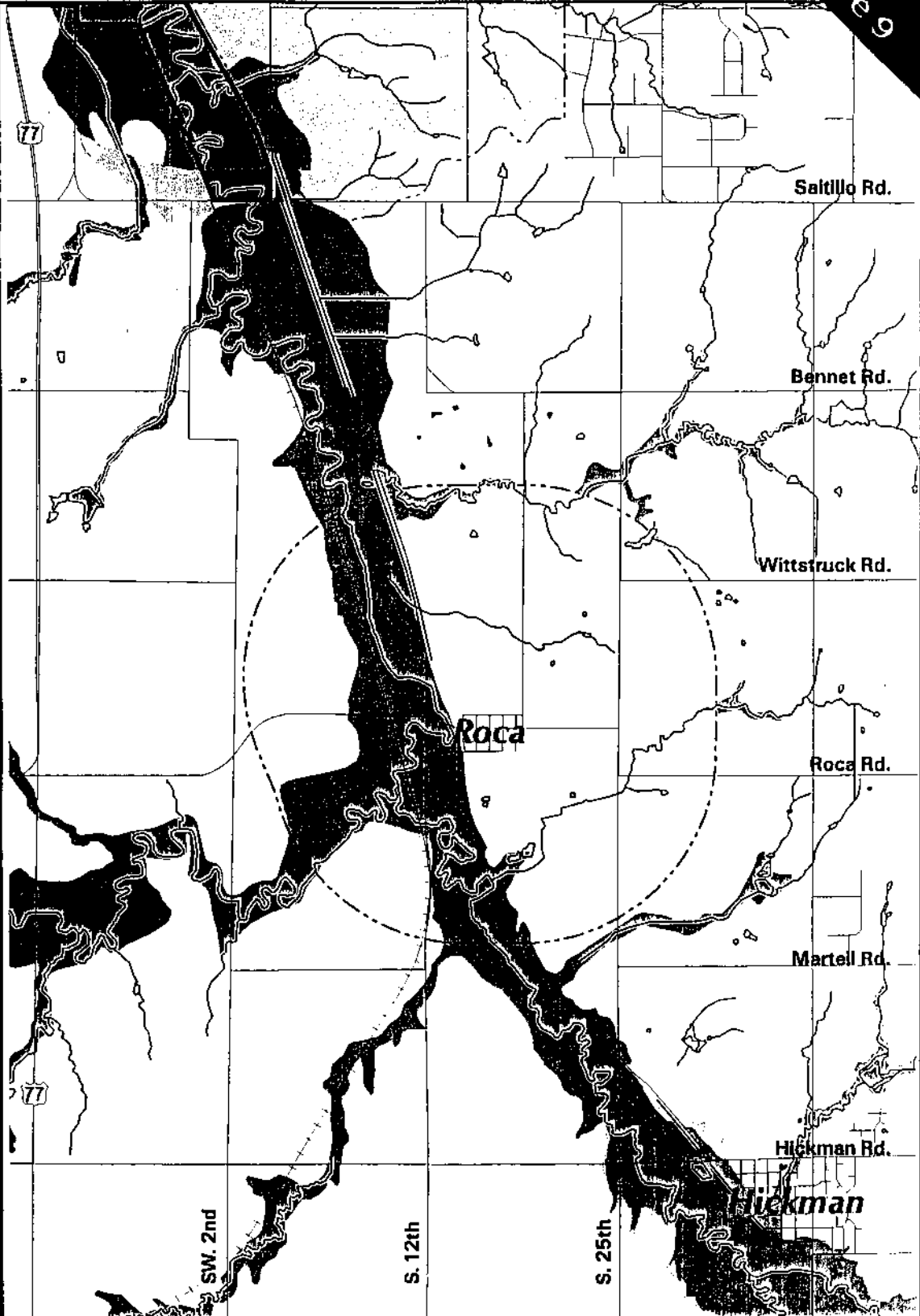
Nicole Fleck-Tooze, Public Works & Utilities

**REVIEWED BY:**

Allan Abbott, Director of Public Works & Utilities

# **Potential Extension of Wilderness Park: Areas to the South Along Salt Creek**

1 inch  
equals  
2750  
ft.  
**Figure 9**



## **Map Items**

- Park Boundary
- Streams
- Streets
- Future Svc. Lim.

## **Flood Plain Areas**

- Floodway
- 100 Year Flood Plain
- 500 Year Flood Plain

## **Map Notes**

- Great Blue Heron Rookery
- Potential Abandonment (UP)

(Note: The Roca flood plain area illustrated on the above map is an approximation based on best available information. The Roca one-mile jurisdiction is also illustrated.)

Lincoln



Nebraska's Capital City

## NEBRASKA ENVIRONMENTAL TRUST GRANT

The City of Lincoln, Parks and Recreation Department has received a Nebraska Environmental Trust Grant that will total \$500,000 over three years. This grant will provide funding to buy conservation easements and/or fee simple title of property surrounding Wilderness Park and to the south between Wilderness Park and Hickman. Land will be in the floodplain with the intent of preventing future development from taking place in it. Acquisition will be from willing sellers only.

The Department will receive \$200,000 in this year's allocation. The remaining balance of \$300,000 will be funded with \$125,000 awarded as part of the 2002-03 grant allocation and the remaining \$175,000 granted in the 2003-04 allocation.

Matching funds for this grant will provide an additional \$201,700. These funds will include an in-kind match from the City of \$30,000 and a cash match of \$60,000. An additional \$50,000 will come from the county, \$50,000 from the NRD, and \$11,700 from the Lincoln Homebuilders and various environmental groups. The environmental groups include Blue Stem Chapter of the Sierra Club, the Friends of Wilderness Park, the Nebraska Wildlife Federation, and the Wachiska Audubon Society. The funds from the NRD can only be used for conservation easements.

The priority for purchase of easements or fee simple acquisition are as follows:

- 1<sup>st</sup> Natural resource areas beginning with the most significant resources such as the heron rookery and existing wetlands;
- 2<sup>nd</sup> Lands including and adjacent to the stream bed of Salt Creek;
- 3<sup>rd</sup> Lands in closest proximity to the City of Lincoln on the north of the floodplain corridor south of Saltillo Rd., and adjacent to existing natural resource areas.

The first priority recognizes the importance of preventing further deterioration of natural resource areas that are currently in place. The second priority recognizes the value of physical proximity to the stream bed in providing effective surface water protection. The third priority recognizes the practical fact that the land located closest to Lincoln should be purchased first as it will tend to rise most rapidly in price.

STATE - LOCAL CONTRACTUAL AGREEMENT ATTACHMENT "A"  
HAZARD MITIGATION GRANT PROGRAM

This agreement between the State of Nebraska (STATE) and the City of Lincoln (Applicant) shall apply for all assistance funds provided by or through the State to the Applicant as a result of the Federal Disaster Declaration (1199). The Federal funds provided by the Federal Emergency Management Agency (FEMA) shall be \$1,100,000. The State contribution shall be \$ -0- and the applicant contribution shall be \$ 366,667.

- 1 The following assurances extracted from Standard Form 424 D (4-88) prescribed by OMB Circular A-102 may or may not be applicable to this hazard mitigation grant. The Disaster Assistance Officer of the Nebraska Emergency Management Agency should be contacted in the event of any applicability questions. As the duly authorized representative of the applicant I certify that the applicant:
  - a. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
  - b. Will give the awarding agency, the Comptroller General of the United States, and if appropriate the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
  - c. Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal interest in the title of real property in accordance with awarding agency directives and will include a covenant in the title of real property acquired in whole in part with Federal assistance funds to assure nondiscrimination during the useful life of the project.
  - d. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.
  - e. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the

approved plans and specifications and will furnish progress reports and such other information as may be required by the assistance awarding agency or State.

- f. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
- g. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
- h. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. Para. 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
- i. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. Para. 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
- j. Will comply with all Federal statute relating to non-discrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Educational Amendments of 1972, as amended (20 U.S.C. Para. 1681-1683, and 1685-1686) which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Para. 794) which prohibit discrimination of the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. Para. 6101-6107) which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 93-255), as amended, relating to non-discrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) Para. 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. Para. 3601 et seq.), as amended, relating to non-discrimination in the sale, rental or financing or housing; (i) any other non-discrimination provisions in the specific statute(s) under which application for Federal assistance is being made, and (j) the requirements on any other non-discrimination Statute(s) which may apply to the application.

- k. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in the purchases.
- l. Will comply with the provisions of the Hatch Act (5 U.S.C. Para. 1501-1508 and 7324-7328 which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
- m. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. Para. 276a to 276a-7), the Copeland Act (40 U.S.C. Para. 276c and 18 U.S.C. Para. 874), the Contract Work Hours and Safety Standards Act (40 U.S. Para. 327-333) regarding labor standards for federally assisted construction subagreements.
- n. Will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
- o. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190 and Executive Order (EO) 11514; (b) Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. Para. 1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. Para. 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
- p. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. Para. 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

- q. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and preservation of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).
  - r. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.
  - s. Will comply with all applicable requirements of all other Federal laws, Executive Orders, regulations and policies governing this program.
2. The Applicant will use disaster assistance funds solely for the purposes for which funds are provided and as approved by the Governor's Authorized Representative. The Applicant is aware that limited funding available for mitigation requires cost-sharing on the basis of 75 percent federal and 25 percent non-federal contributions and that the Applicant may be required to provide all or part of the non-federal share for such mitigation activities. For this disaster the Applicant will assume 25% of the match.
3. The Applicant will return to the State, within fifteen days of such request by the Governor's Authorized Representative, any advance funds which are not supported by audit or other federal or state review of documentation maintained by the Applicant.
4. The Applicant will comply with all applicable codes and standards as pertains to this project and agrees to provide maintenance as appropriate. Applicant will also be aware of the provisions of RRS 81-829.73

The Applicant will comply with all applicable provisions of federal and state law and regulation in regard to procurement of goods and services.



Signed for the Applicant:

City Of Lincoln

Applicant

Don Wesely

Authorized Signature

Don Wesely

Mayor of Lincoln

Title

4-9-201

Date

Signed for the State:

Governor's Authorized  
Representative

Signature

Date

# STATE OF NEBRASKA



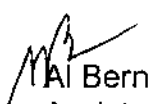
Mike Johanns  
Governor

## EMERGENCY MANAGEMENT AGENCY

Roger P. Lempke  
Adjutant General  
1300 Military Road  
Lincoln, Nebraska 68508-1090  
Phone: (402) 471-7421

March 8, 2001

MEMORANDUM FOR: Nicole Fleck-Tooze  
Special Projects Coordinator  
Lincoln Public Works and Utilities

FROM:  Al Berndt  
Assistant Director, Nebraska Emergency Management Agency

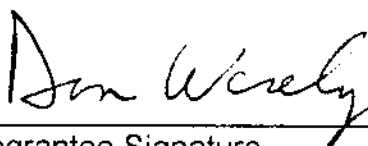
SUBJECT: Concurrence of Understanding

RE: FEMA 1190-DR-NE Project #9  
City of Lincoln Conservation Easements

As a condition of approval for your project for the acquisition of conservation easements it has been identified that no acquisition will take place for property or properties which would be located within the boundaries of the South Beltway corridor that is under consideration which would cross the Salt Creek floodplain approximately 1/2 mile south of Saltillo Road. Only those easements that will be outside of the proposed South Beltway corridor have approval.

Acceptance of this Concurrence of Understanding is acknowledged by your signature below. If you have any questions or need additional information, please call Lori Moore, State Hazard Mitigation Officer at 471-7416.

Concurrence:

  
\_\_\_\_\_  
HMGP Subgrantee Signature  
Don Wesely, Mayor of Lincoln

4-9-2001  
\_\_\_\_\_  
Date

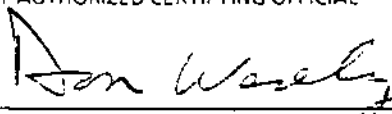
## ASSURANCES — NON-CONSTRUCTION PROGRAMS

**Note:** Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
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9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
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12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL 	TITLE  Don Wesely, Mayor	
APPLICANT ORGANIZATION  City Of Lincoln		DATE SUBMITTED  4-9-2001